

**TAX ARRANGEMENT AGREEMENT**

**BETWEEN**

**THE MINISTRY OF FINANCE**

**AND**

**THE LEGAL ENTITY OF PUBLIC LAW MILLENNIUM CHALLENGE  
GEORGIA FUND**

THIS DOCUMENT CONTAINS MILLENNIUM CHALLENGE ACCOUNT PROPOSAL OR COMPACT DISCUSSION INFORMATION. IT IS CLASSIFIED AS FOREIGN GOVERNMENT INFORMATION PURSUANT TO E.O. 12958 AND 32 C.F.R. PART 2001. MODIFIED HANDLING IS AUTHORIZED\*\*This information may be mailed or transmitted over unsecured phone lines, and stored on unclassified computer systems. It must be stored in a locked or secured building, room, or cabinet. See MCC FGI Policy for declassification instructions.

This **AGREEMENT CONCERNING CERTAIN TAX EXEMPTIONS** (this "*Agreement*") is made as of March 24, 2006 (the "*Effective Date*"), by and between the Ministry of Finance (the "*Ministry*") and the Millennium Challenge Georgia Fund, a public legal entity established pursuant to Presidential Decree No. 561, dated December 3, 2004 ("*MCA-Georgia*" or "*MCG*"), (collectively, the "*Parties*", and each individually a "*Party*"). Capitalized terms used but not defined herein shall have the meanings set forth in the Compact (as defined below).

### **RECITALS**

WHEREAS, the United States of America, acting through the Millennium Challenge Corporation ("*MCC*"), and the Government of Georgia (the "*Government*") executed the Millennium Challenge Compact on September 12, 2005 (the "*Compact*"), that sets forth the general terms and conditions on which MCC will provide funding of up to \$295,300,000 to the Government for a Millennium Challenge Account program to advance economic growth and reduce poverty in *Georgia* (the "*Program*");

WHEREAS, the Government has designated MCG to implement the Program pursuant to the Designation Agreement dated as of December 30, 2005 between the Government and MCC and the Acceptance of Designation Agreement dated as of January 26, 2006 between MCG and MCC;

WHEREAS, pursuant to the Compact, the Georgia Regional Development Fund (the "*Fund*") will be organized for the purpose of making investments in, and providing business assistance to, small and medium enterprises in Georgia in furtherance of the Investment Fund Project Activity; and

WHEREAS, Section 2.3(e) of the Compact provides that all Program Assets, MCC Funding and Accrued Interest will be free of Taxes;

WHEREAS, due to the impracticality of and difficulty in implementing a value added tax ("*VAT*") exemption for the Program, the Government has instead requested that VAT be reimbursed by the Government; and

WHEREAS, the Parties wish to agree on certain procedures for ensuring the implementation of Section 2.3(e) of the Compact;

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties, intending to be legally bound, agree:

### **ARTICLE I. GENERAL EXEMPTION FROM TAXES**

1.1 **General Exemption.** The Ministry shall ensure all Program Assets, MCC Funding, and Accrued Interest (together "*Compact Funding and Assets*") are exempt from any Taxes under legislation currently or hereafter in effect in Georgia during the Compact term and, as to the Fund, for a further five years after the Compact term (consistent with Annex 1 of the Compact, schedule 2, section 2(a) (i) (1) (b). Such exemption applies to any use of Compact Funding and Assets, and for the avoidance of doubt, to any activities and labor performed, and supplies used or purchased, in the THIS DOCUMENT CONTAINS MILLENNIUM CHALLENGE ACCOUNT PROPOSAL OR COMPACT DISCUSSION INFORMATION. IT IS CLASSIFIED AS FOREIGN GOVERNMENT INFORMATION PURSUANT TO E.O. 12958 AND 32 C.F.R. PART 2001. MODIFIED HANDLING IS AUTHORIZED\*\*This information may be mailed or transmitted over unsecured phone lines, and stored on unclassified computer systems. It must be stored in a locked or secured building, room, or cabinet. See MCC FGI Policy for declassification instructions.

implementation of the Compact, by any person or organization (among them contractors and grantees) funded by MCC Funding, as set forth in and in accordance with Section 2.3(e) of the Compact.

1.2. **MCG Exemption.** MCG shall be free from any Taxes as set forth in and in accordance with Section 2.3(e) of the Compact. The Ministry shall issue a tax exemption letter to MCG evidencing such exemption from Taxes (other than VAT), as promptly as possible and in no event later than the date of the initial Re-Disbursement under the Compact.

1.3. **Further Assurances.** In order to implement this Agreement and Section 2.3(e) of the Compact, the Ministry shall from time to time execute and deliver, or cause to be executed and delivered, such other instructions, instruments or documents, and to take or cause to be taken such other action, as may be necessary or appropriate.

## **ARTICLE II. TAX EXEMPTION LETTERS**

2.1. **Tax Exemption Letters.** The Ministry consistent with section 2.3(e) of the Compact and the Instructions on Applying Tax and Customs Exemption in the Course of Implementation of the Compact (the "Instructions") shall issue official tax exemption letters (each a "***Tax Exemption Letter***") evidencing that the recipients of Compact Funding and Assets are exempt from all Taxes other than VAT. The Tax Exemption Letter shall be drafted by the Ministry in English and in Georgian and shall be provided to MCG on the Effective Date. **The form of Tax Exemption Letter is provided as Annex A herein.**

2.2. **Issuance of Tax Exemption Letters.** From time to time MCG shall provide to the Ministry a list of Implementing Entities, contractors, other Providers and third parties receiving MCC Funding with which MCG is doing business or with which it is planning to do business. The list shall state, for each Implementing Entity, contractor, Provider or other third party, the forecasted length of time of the engagement of such Implementing Entity, contractor, Provider or third party. Within fifteen (15) calendar days of receiving such list, the Ministry shall provide a separate Tax Exemption Letter to MCG for each Implementing Entity, contractor, Provider or third party on the list, which shall be valid for the lesser of (i) the term of the services or (ii) one calendar year. MCG shall deliver the relevant Tax Exemption Letter to the relevant Implementing Entity, contractor, Provider or third party as evidence of compliance with the tax exemption provisions in the Compact.

## **ARTICLE III. VAT**

3.1. **Establishment of VAT Account.** The Ministry shall establish a separate account (the "***VAT Account***") at the State Treasury and provide MCG or its designated agent regular withdrawal access to the account. MCG shall identify its authorized representatives or agents for the purposes of this Article III to the Ministry in writing.

3.2. **Provision for VAT Reimbursement Amounts in Annual Budget.** No later than August 15 of each calendar year, MCG shall provide the Ministry with an estimate of the amount of

Reimbursable VAT Expenses (defined below) for the next calendar year. The Ministry will ensure that provision for such expenses is made in the State budget.

**3.3. Deposit of Funds in VAT Account.** The Ministry shall deposit the total amount of the forecasted annual Reimbursable VAT Expense in the VAT Account within seven calendar days of Parliamentary approval of the State budget. The state-budgeted expenses notwithstanding, the Ministry shall deposit further funds in the VAT Account (if necessary) from time to time to ensure that funds are at all times available to make the payments required by Section 3.4.

**3.4. Payments out of VAT Account.** MCG or its designated representative shall withdraw sums out of the VAT Account as needed to pay Reimbursable VAT Expenses. Payments shall be made through the State Treasury. MCG shall present the State Treasury a tax order authenticated with valid signatures of two permitted signatories and the MCG seal for each withdrawal, as provided in the regulations on non-cash settlements approved by National Bank order N 220 of September 2, 1999. The Ministry shall ensure that funds in the amount of the Reimbursable VAT Expenses are transferred from the State Treasury to MCG or as directed by MCG. MCG or its designated representative shall be entitled to receive from the State Treasury complete activity reports regarding the VAT Account on a monthly basis or at such other periodic basis as the Parties may agree.

**3.5. VAT Reports.** At least fifteen (15) calendar days prior to the commencement of each calendar quarter, MCG or its designated agent shall submit to the Ministry a copy of the quarterly Financial Plan which will forecast for the following calendar quarter and identify, in GEL, any VAT imposed on goods, labor and services procured by MCG, Implementing Entities, Providers, contractors and other third parties under the Compact ("*Reimbursable VAT Expense*"). No later than fifteen (15) days after the end of each calendar quarter (commencing with the quarter ended June 30, 2006), MCG or its designated representative shall submit a report to the Ministry accounting for all payments out of the VAT Account during the preceding quarter.

**3.6. VAT Audit.** Each of the Ministry, MCG and MCC may audit the VAT Account from time to time. The Parties shall cooperate in any such audit.

#### **ARTICLE IV. TAX TREATMENT OF FUND**

For the avoidance of doubt, in addition to the other exemptions provided under this Agreement, any profits or distributions from the Fund shall be exempt from all Taxes.

#### **ARTICLE V. MISCELLANEOUS**

**5.1. Ministry Liaison.** The Ministry hereby designates Lasha Gotsiridze the First Deputy Minister of Finance as a Ministry representative to serve as the liaison with MCG and with other Government Affiliates in the administration of this Agreement and any other matters as may be necessary for the effective implementation of the tax-related provisions of the Compact.

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**5.2. Government Obligation.** In accordance with Section 2.3(e) of the Compact, the Government shall reimburse Taxes paid in each case in which (a) a Tax Exemption Letter provided for herein is not accepted or recognized by the tax and customs authorities or (b) there are insufficient funds for the payment of VAT for any reason, including in the event that the actual amount of the Reimbursable VAT Expenses exceeds the amount estimated by MCG and budgeted for in the state budget (as described in Sections 3.2 and 3.3). The Government hereby acknowledges that it shall ensure that each Government Affiliate and each other governmental body makes a good faith effort to implement and recognize the exemptions from Taxes contemplated under Section 2.3(e) of the Compact.

**5.3 Communications.** Any communication by either Party to the other under this Agreement shall be (a) in writing, (b) in English (provided that any routine reports or correspondence may be provided in Georgian), and (c) deemed duly given: (i) upon personal delivery to the Party to be notified; (ii) when sent by confirmed facsimile or electronic mail, if sent during normal business hours of the recipient Party, if not, then on the next business day; or (iii) two (2) business days after deposit with an internationally recognized overnight courier, specifying next day delivery with written verification of receipt, to the Party to be notified at the address indicated below, or at such other address as such Party may designate:

**To the Ministry:**

Ministry of Finance of Georgia  
1. Abashidze st. 70  
Tbilisi, 0162  
Attention: Lasha Gotsiridze First Deputy Minister  
Tel: +(995-32) 25-03-71  
Facsimile: +(995-32) 25-03-71  
Email: l.gotsiridze@mof.ge

**To MCG:**

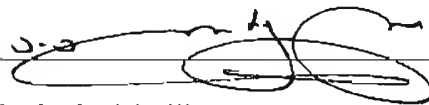
Millennium Challenge Georgia Fund  
Attention: Lasha Shanidze, Chief Executive Officer (Principal Representative)  
4 Sanapiro St.  
Tbilisi, 0105  
Tel: + (995-32) 93-91-12; 93-91-13; 93-91-33  
Fax: + (995-32) 93-91-44  
Email: [lashanidze@mcg.ge](mailto:lashanidze@mcg.ge)

**5.4. Dispute Resolution.** Any dispute with regard to this Agreement shall be resolved between the Parties through negotiation.

**5.5. Amendments.** This Agreement may be amended only by an agreement in writing between the Parties and with the prior consent of MCC.

**IN WITNESS WHEREOF**, each of the Parties have caused this Agreement to be executed by a duly authorized representative as of the day and year first written above.


The Ministry of Finance

By: \_\_\_\_\_

Name: Alexi Alexishvili

Title: Minister

Millennium Challenge Georgia Fund

By: \_\_\_\_\_

Name: Lasha Shanidze

Title: Chief Executive Officer

**ANNEX A**

[on the Letterhead of the Ministry of Finance]

**TAX EXEMPTION LETTER**

[Date]

[Title of the organization]

Your organization, being an implementer of the Millennium Challenge Program [title of the program] [launch date --- (year, month, date)] is acting in the capacity of Millennium Challenge Compact ("Compact") entered on September 12, 2005 between the Government of the United States of America, acting through Millennium Challenge Corporation ("MCC") and the Government of Georgia.

Based on the foregoing, hereby we certify that tax and customs exemption envisaged by Order No. [ ] of the Minister of Finance approving the Instructions On Applying Tax and Customs Exemption in the Course of Implementation of Millennium Challenge Compact between the Government of Georgia and the United States Government executed on September 12, 2005 based on Section 2.3.(e) of the Compact, are applicable to the (the title of the organization) in the scope of the Millennium Challenge Program. This tax exemption letter is valid for the term of the lesser of (i) [insert term of services] or (ii) one calendar year from the date hereof, unless otherwise renewed and reissued.

Hereby we inform you that Order N – and instruction are posted at the web page of the Ministry of Finance [www.mof.ge](http://www.mof.ge)

[Signature]

[Name and position of the authorized representative of the Ministry of Finance]

Enclosure: Instructions on Applying Tax and Customs Exemption in the Course of Implementation of the Millennium Challenge Compact executed between the Government of Georgia and the United States Government on September 12, 2005